IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

CRIMINAL APPEAL No.363 of 2001

M/s Sri Deepa Jothi Finanace and
Investments[Partnership firm
rep. By its Partnr B.Damodarasamy
Balakrishna Naidu ..Appellant

-vs-

J.Deva Irakkam ..Respondent

This appeal has been filed under section 378 of Criminal Procedure Code against the Judgment made in S.T.C.No.2566 of 1998 dated 20.12.2000 on the file of Judicial Magistrate No.V, Coimbatore.

For appellant : : Mr.N.Ishitaq Ahamed

For respondent : : Expired.

JUDGMENT

Heard the learned counsel appearing for the appellant. Admittedly, the accused is now no more. This appeal has been preferred against the findings of the learned Judicial Magistrate No.V.Coimbatore in S.T.C.No.2566 of 1998.

2. The complainant preferred by the complainant against the accused under Section 138 of the Negotiable Instruments Act 1881 was dismissed by the learned Judicial Magistrate, after full trial against which the present appeal has been preferred by the complainant. But pending appeal, the accused breathed his last.

3.Now the question mooted before this Court is whether the legal representatives of the accused can be proceeded with in this appeal. In view of Section 29 of the Negotiable Instruments Act 1881, the legal representatives of the accused in a case under Section 138 of the said Act cannot be proceed with, unless it is shown that the legal representative has also signed in the

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impugned cheque. Admittedly, the legal representatives of the accused have not signed in the impugned cheque in this case. Under such circumstances, I am of the view that nothing survives in this appeal.

4. With the above observation, the appeal is closed.

sg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Judicial Magistrate No.V. Coimbatore.

2. Do Thro' The Chief JUdicial Magistrate, Coimbatore.

Crl.A.No.363/2001

JRG(CO)
SR/18.6.2007

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